

TAX FLASH NEWS

17 July 2019



The Central Action Plan - 2019-20

Background

Recently, the Central Board of Direct Taxes (CBDT) released the Central Action Plan for 2019-20 (Central Action Plan). It retains the broad structure of the earlier Action Plan and envisages a non-adversarial and effective tax administration, with progressive tax policy and improved tax compliance. The focus area of Central Action Plan is litigation management, improving quality in diverse areas of work and strengthening compliance and enforcement functions. Specific targets and strategies in these focus areas have been prescribed in the Central Action Plan.

Key objectives and goals specified in the Central Action Plan are summarised as follows:

Reduction of arrears of demand

- The target of reduction in the arrears of demand has been retained at 40 per cent of the total demand as on 1 April 2019.
- Minimum 15 per cent of brought forward entries of arrear demands to be reduced in corporate and international taxation and minimum 25 per cent of such entries be reduced in non-corporate charges.
- Specific targets for a reconciliation of arrears of demand on Centralised Processing Center (CPC) portal as well as for giving effect to appeals orders are fixed as follows:

Reconciliation of arrear demand	Reconciliation of arrear demand to be completed by 31 August 2019
Passing of appeal effect order	<ul style="list-style-type: none"> • All pending appeal effect orders should be issued by 31 July 2019. • In all other cases, appeal effect orders should be passed within two months from the date of receipt of the order

- For stay related cases, the following strategies are adopted:

Demand stayed by Courts/Tribunal	<ul style="list-style-type: none"> • Identification of all the stay granted matters by 31 July 2019 • Provision of necessary inputs/written submissions by Assessing Officer (AO) and Additional Commissioner of Income Tax (ACIT) Range to Commissioner of Income Tax (Departmental Representatives) [CIT (DRs)] for proceedings before Income-tax Appellate Tribunal (ITAT) • CIT (DRs) not to seek adjournments in normal course • PCIT/CIT will personally attend court proceedings in stay matters before the High Court.
Demand stayed by Tax Authorities	<ul style="list-style-type: none"> • All the pending remand reports should be sent to Commissioner of Income-tax (A) [CIT(A)] by 30 September 2019. • Remand report under Section 250(4) of the Act in stay granted matters to be furnished within 30 days.

Litigation Management

Targets for CIT(A)

- Each Principal Chief Commissioner of Income-tax (PCCIT) Region shall ensure:
 - Disposal of 100 per cent of appeals pending as on 1 April 2019 that involve demand of INR50 crores and above

- Disposal of at least 40 per cent of appeals that involve demand of INR10 lakh or more
 - Disposal of at least 90 per cent of appeals that involve demand of INR2 lakh to INR10 lakh
 - Disposal of at least 90 per cent of appeals that involve demand of less than INR2 lakh
 - Disposal of 90 per cent of all appeals pending beyond 5 years
- Each individual CIT(A) shall be expected to dispose of a minimum of 550 appeals during the financial year.
 - In respect of appeals pending for more than five years, the CIT(A) shall segregate appeals which have been stayed by judicial authorities. In respect of remaining appeals, 90 per cent of the appeals should be disposed of during the year.
 - The search and seizure appeals belonging to same group shall be grouped together for disposal even if some of the appeals do not fall within the priority category
 - The Central Action Plan has prescribed targets and norms in respect of the disposal of appeals pending with CIT(A) in each PCCIT Region. Appeals have been segregated demand wise whereby high-value appeals have been targeted to dispose of at the earliest. Each CIT(A) shall be expected to dispose of a minimum of 550 appeals.
 - The demand above INR50 crore and pending as on 1 April 2019 shall be disposed of by 31 December 2019. Higher priority shall be given to appeals involving demand of INR10 lakh and above irrespective of the year in which the appeals are filed. The appeals involving demand of INR2 to 10 lakh shall receive the next priority for disposal. The next priority shall be given to appeals involving demand of less than INR2 lakh and filed up to 31 March 2019.
 - The lowest priority shall be given to disposal of appeals involving demand of less than INR10 lakh and file during the current Financial Year (FY) 2019-20.
 - Appeals of the same taxpayer relating to different years involving substantially similar issues or inter-related issues may be disposed of irrespective of the category to which they belong if one of the appeals falls for priority disposal.
 - In respect of group search and seizure cases the CIT(A) may dispose of appeals of group cases irrespective of the category to which they belong if one of the appeals falls for priority disposal.
- Appeals pending for more than five years shall be given highest priority. Cases set aside and restored to the CIT(A) by courts/ITAT are to be disposed of on priority.
- ### Representation before the CIT(A)
- Each CIT(A) shall identify the top 20 cases for quality assessments and shall make proper representation in these cases before CIT(A). The PCIT shall ensure that these are properly represented before CIT(A).
- ### Appeals with Tribunal/High Court
- Every PCIT shall identify top 30 litigation cases of taxpayers in his Charge where important issues are pending at one or more appellate levels in Tribunal/High Court/Supreme Court.
 - After identification, the cases with common or similar issue(s) shall be bunched. If there are common or similar issues in cases across CCIT regions within a PCCIT Region, the bunching shall be done at the level of PCCIT.
 - Also, for proper litigation management, a master list of appeals pending at the Tribunal, High Court, Supreme Court as on 1 April 2019, prepared by the AOs for each Pr.CCIT and the same is to be updated every quarter and forwarded to Pr. DGIT (L&R) which is to be compiled by the fifteenth of the end of each quarter.
- ### Prosecution
- The PCCIT/CCIT shall identify prosecution complaints pending for more than two years and will devise case-specific litigation strategy for early hearing and effective representation to enable the Courts to take a final view in the matter at the earliest.
- ### Assessments
- #### ***Uploading of paper returns and processing of e-returns by AO***
- The following two actions by the AO are important for timely capturing of information for the purposes of reporting and for completion of processing and selection of cases for scrutiny:
- Uploading of paper returns- 100 per cent of manual returns pending for processing and filed between 1 April 2019 and 30 June 2019 should be uploaded by 31 July 2019.
 - Processing of e-returns- 100 per cent of e-returns pushed to AO's portal by CPC and pending for processing to be processed by 31 July 2019.

Scrutiny assessment

- Assessments in limited scrutiny category should be completed by 31 October 2019.
- After amendment in Section 153 of the Act, scrutiny assessments for Assessment Year (AY) 2018-19 and AY 2019-20 will get time-barred on 30 September 2020 and 31 March 2021. Thus during 2020-21 assessment workload may increase for rationalizing this workload, 15 per cent non-time barring assessments are to be completed during 2018-19 and 2019-20. This target is for the PCCIT regions as a whole and is mandatory.
- These non-time-barring assessments are required to be completed by 30 January 2020, so that the officers can devote sufficient time to recovery and collection efforts.
- Each AO shall pass at least 20 quality assessment orders before 30 March 2020 which are considered as their best investigation cases. Such cases shall be marked by AO in ITBA as Quality Orders.

Recovery

- A large number of companies have been struck off from the records of the Registrar of Companies (ROC); in some case petitions for restoration of registration are required to be filed before the National Company Law Tribunal (NCLT) to recover tax demands raised in their cases. AOs must identify all such cases at the earliest and ensure filing of petitions by 31 August 2019.
- Where the total number of Tax Recovery Certificates (TRCs) with any TRO is less than 150, the target of 20 per cent should be suitably enhanced by the respective Pr.CIT.
- Each TRO should complete at least two auctions in suitable cases in respect of the Pr.CIT Charge and effect recovery during the financial year itself. Each TRO shall also conduct at least ten recovery surveys in suitable cases.
- In cases where assets or banks balances lie abroad and where India's tax treaties provide for assistance in collection of taxes, request may be made to foreign tax authorities through FT&TR Division to collect the 'revenue claim' or take conservancy measures in accordance with the provisions of the relevant treaty.

Adjustment of demand against amount available in PD account

The entries in the PD account of Pr.CsIT and Pr. DsIT which are not PAN populated which needs to be adjusted against tax arrears to be given due attention with the following targets:

- Review of all entries in Personal Deposit (PD) accounts and PAN population of the entries by 31 August, 2019.

- Adjustment of amounts in PD accounts against tax arrears by 31 December 2019.

Prosecution and compounding

- The AOs shall identify potential cases with regard to all relevant Sections¹ of the Act, Benami Transactions Act and Black Money Act at the end of the each quarter. Range heads are to ensure that proposals reach the PCIT/PDIT expeditiously.
- The PCITs/CITs shall ensure that the cases are processed expeditiously, so that decisions are taken and sanctions accorded in appropriate cases before the end of the quarter in which the proposal is received by the PCIT/CIT. PCITs/CITs may also ensure proper follow-up of cases after filing of the complaints, so that court proceedings are expedited.
- Where prosecution proposals are to be sent to CBDT for approval as in Benami Cases, all proposals are to be sent by 31 December 2019.
- Prosecutions and attachments under the Black Money Act must also be focused upon and expedited.

Widening of tax base

- Due to increased economic activities both in organised as well as unorganised sectors, there is scope for the widening of the direct tax base of the country. New opportunities for identification of potential taxpayers have opened up due to data mining and data analytics². The effective utilisation of these data by the field officers would result in the identification of a large number of potential taxpayers.
- Additionally, local intelligence, inputs from market associations, trade bodies and professional bodies should also be gathered and used to identify non-filers.
- The awareness meetings and outreach programmes may also be used to encourage voluntary compliance, especially in Tier 2 and 3 cities.
- The Principal Chief Commissioners (PCCs) should also develop a regional strategy keeping in view the specific profile of these regions to significantly widen the tax base.
- The targets with regards to adding new filers for different regions have been worked out on the basis of the following parameters with appropriate weightage:

- Filer base at the beginning of FY 2019-20
- New filers added during FY 2018-19

¹ Including sections 276C(1), 276C(2), 276CC, 276D, 276D, 277, 277A and 278 of the Act.

² Conducted by the Systems Directorate, Directorate of I&CI, Investigation wing

- Non-filers identified under Non-filer Monetary System (NMS) 8 (AY 2018-19)

International taxation and transfer pricing

The International Taxation and Transfer Pricing landscape is undergoing rapid changes. The nuances of cross-border transactions are mutating. The Base Erosion and Profit Shifting (BEPS) proposals have crowded the mind space of all concerned. Amidst the growing forces of globalisation and digitisation, the broader goal of the International taxation and Transfer pricing charges is to ensure that the taxpayer their fair share of taxes. Besides contributing to the direct tax collection, the international taxation units are also ensuring compliance of withholding tax provisions, carrying out assessments and verification of high risk data in Form 15CA/15CB and 15CC.

Verification of high-risk remittance data

- The major part of collections in international taxation charges comes from Tax Deducted at Source (TDS). There is a need to apply more focused and effective risk parameters in selecting high-risk data for verification. A set of revised risk parameters for selecting high-risk remittance data from Forms 15CA/CB shall be formulated by a team of tax officers.
- Rule 37BB(3) of the Income-tax Rules, 1962 (the Rules) provides a long list of payments of specified nature that do not require the submission of Forms 15CA and 15CB. Some basic monitoring of such payments should be carried out to check misuse of these relaxations provided in the Rules. This would need processing of information contained in Form 15CC, and provide basic details of all foreign remittances made through that dealer.

Analysis of data in Form 49C (Liaison offices)

Information in Form 49C is required to be filed electronically by non-residents having liaison offices in India. An SOP for effective utilisation of this information is being formulated by committee set up by Pr. CCIT(IT) New Delhi. The AOs should take action in accordance with the recommendations of the committee.

Equalisation levy

The 'Equalisation Levy' introduced by Finance Act, 2016 requires an annual return to be furnished electronically by the payer in Form No.1 on or before 30 June immediately following the relevant FY. At present, access to the Form No. 1 is available only with the AO of the payer/remitter who is normally a resident. However, the levy actually relates to income of a non-resident recipient and needs to be correlated with the gross receipts of that non-resident. Therefore, access to Form No. 1 needs to be given to officers of international taxation charges in respective regions. An SOP for effective utilisation of this information is being

formulated by committee set up by Pr. CCIT(IT) New Delhi. The AOs shall take action in accordance with the recommendations of the committee.

Enforcement actions

Surveys are the most effective tools for detection of non-compliance of withholding tax requirements. Therefore, each AO in charge of TDS is required to carry out at least 10 surveys or spot verifications.

Action on defaults in immovable property transactions based on AIR Information:

- Data on the sale of immovable properties over threshold limit available in Annual Information Return (AIR) returns may be obtained and matched with transactions on which TDS has been deducted under Section 195 of the Act to generate a list of defaulters, on which action can be taken by AOs.
- In many cases, the buyer of the property only deducts 1 per cent TDS on purchase of immovable property from Non-Resident Indians (NRI's), which actually requires TDS at 20 per cent. These are high-risk cases which need to be taken up on a priority basis.

Withholding and nil withholding certificates under Sections 197/195 of the Act

- These certificates and orders should be issued expeditiously and in any case within two months from the date of receipt of application.
- Where orders under Section 195 of the Act are passed determining an amount of tax to be deducted, a copy of the order should be endorsed to the AO of the deductor for the purposes of disallowance under Section 40(a)(i) of the Act.
- The CPC(TDS) has introduced a new feature in Form 26AS (Part-G) showing various TDS demands of the concerned Permanent Account Number (PAN) [including demands in respect of Tax Deduction and Collection Account Number (TANs) mapped with that PAN]. Also, 'Aggregated TDS Compliance' view is available to field TDS Officers on the AOs Portal of the CPC(TDS) for this purpose.
- In addition, tax demand outstanding against PAN of the applicant is also available on the system. These features will help the AOs in visualising the demands against the taxpayer, and should be used for recovery while issuing certificates under Section 197/195 of the Act.

Monitoring of TDS statement

- TDS statements filed by top 100 deductors shall be monitored by each AO and instances of lower TDS should be verified.

Transfer Pricing

- As a consequence of amendments made in Section 153 of the Act, the limitation periods for scrutiny assessments for AY 2018-19 and AY 2019-20 are getting curtailed. Correspondingly, transfer pricing audits will also have to be completed for these years within shorter time periods. It is therefore necessary that a certain minimum number of non-time-barring audits are completed during 2018-19 to 2020-21. The targets set out above require a minimum of 30 per cent of non-time-barring audits to be completed during the current year itself.

TDS Units

Following actions are laid down as guidance to the field officers though they may formulate area specific strategies as per specific need and priority:

Capacity building

- TDS workshops and awareness programmes can be conducted for all categories of deductors including government deductors.
- Huge demands are pending in the system TDS Reconciliation, Analysis and Correction Enabling System (TRACES) since long. TDS AOs should take initiatives to educate the listed defaulters in this regard.
- Meetings should also be conducted with the Chartered Accountants and TDS Consultants regarding preparation, submission and correction of TDS statements and payments.

Cash collection and reduction

- There are huge demands pending in the system related to statements filed since FY 2007-08. The field AOs should generate the list of defaulters from TRACES and issue letters to the defaulters detailing the method to resolve the issues online.
- All demands raised should be entered on the AOs portal of the CPC (TDS) and efforts should be made to collect the demands within the FY itself.
- In order to ensure correct and prompt reporting and collection of TDS by state governments, the Range heads should closely interact with the State Accountant General and treasuries, and provide necessary guidance to minimise errors and delays. Every quarter, one meeting with State AG should be organised.

Issuance of certificates under Section 197 of the Act

- Circulars and instructions issued by the CBDT shall be followed while issuing certificates under Section 197 of the Act.

Surveys

- A new target of at least 20 surveys/spot verifications by each AO during the year has been incorporated in the Central Action Plan. CPC (TDS) would regularly provide useful reports to field officers that may be used for identifying survey cases.

Initiation of prosecutions and disposal of compounding applications

- In various cases where the deductors have failed to pay the TDS/TCS or have kept the amount with them and paid such amount after substantial time into the credit of the central government as required in Chapter XVII-B. Initiating prosecution in these cases is an effective deterrence to non-compliance of TDS/TCS provisions. Adequate publicity in local newspapers could be given to the action taken on prosecution and also acceptance of compounding proposals.

Penalty under Section 271C of the Act for failure to deduct whole or any part of TDS

- Surveys and other enforcement actions reveal that either the deductor has not been deducting the tax at all or has been deducting at low rates. In appropriate cases, initiation of penalty proceeding under Section 271C of the Act is warranted to dissuade the deductor from indulging in such exercise that has a direct bearing on tax revenue.

Tax Default Reports

- The CPC(TDS) shall compile information about the compliance of the deductor in terms of filing of TDS statements, payment of taxes, reporting of inconsistent data and default patterns. On the basis of the compilation, a 'Tax Default Report' for a TAN (deductor) would be made available to the field TDS officer for examination and further follow up, as deemed fit. The reports can also be of assistance to pick up cases for surveys/prosecutions.

Reporting transactions with 'High Value'

- In large cases, it has been reported that the deductors are making PAN errors in TDS statements by showing invalid PANs or 'PAN not available'. Accordingly, CsIT(TDS) may advise the deductors to insist upon furnishing of valid PAN by taxpayers in case of high-value transactions.

Action on information of defaulters available in 3CD Reports

- In online 3CD reports, the information is available on non-deduction, short deduction, failure to deduct, failure to deposit, short deposit and delay in the deposit. However, the information of failure to deduct and lower deduction under the wrong section is not available in TDS statements. Therefore, the data of 3CD reports can be used by the AOs to take action. Further verification of mismatch in 3CD reports and TDS returns must be carried out in top 100 cases in each CIT charge.

Action on defaults in immovable properties transactions based on AIR Information

Data of sale of immovable properties over threshold limit from AIR returns can be matched with transactions on which TDS has been deducted under Section 194IA of the Act to generate list of defaulters, on which action can be taken by TDS AOs. These transactions are not visible to TDS AO as they are PAN based.

Action against non-filers

- The CPC(TDS) shall provide a window to taxpayers to flag non-compliance on the part of the deductor. This feedback shall be made available to the relevant field TDS officer for further action.

Other strategies

- E-commerce has emerged as a huge business in the past few years. This involves advertisement on the websites/portal of various organised and unorganised agencies, payments for job work – building website, translation of pages, data entry of text, research, etc. This area may generate significant revenue.
- The 24G³ Statements filed by the AIN⁴ holders could be utilised to issue notices to government deductors to file their TDS statements in time.
- Monitoring of monthly TDS remittance from salaries is required, both from the private sector as well as government departments.
- Monitoring of monthly TDS remittance from salaries on monthly basis is required, both from the private sector as well as government departments.

Intelligence and Criminal Investigation

The directorate of Intelligence and Criminal Investigation (I&CI) has affected paradigm shift in the Direct Tax Administration. Promotion of voluntary compliance through non-intrusive tax administration and strengthening the mechanism for tax deterrence are the corner stones of the present tax policy and Administration. The Action Points for the Directorate of I&CI and other Directorates are as under:

- DsIT(I&CI) are required to submit report on the nature of unreported transactions such as non-PAN, incorrect PAN, etc., detected generally in the cases of cooperative banks and SROs.
- Non-PAN data for FY 2015-16 was passed on the I&CI Directorate was passed in February 2018. After that Directorate of Risk Assessment has not provided any actionable Non-PAN data. Therefore, the pendency for verification as on 1 April 2019 has to be liquidated by 30 September 2019. The number of verification to be done per month by

each DDIT(I&CI) should be minimum thirteen and by each ITO(I&CI) should be seventeen.

- 50 per cent verification of actionable cases from SFT of FY 2016-17 and 2017-18 should be completed by within 6 months of receiving of data. Also, Directorate of Risk Assessment should not push company cases to I&CI, as company cases invariably have PAN.

Exchange of Information under the tax treaties

- Where information/evidence available in foreign countries/jurisdictions may be necessary for the purposes of assessment/investigation, request for information in time-barring cases should be made under the provisions of tax treaties through the FT&TR Division at least one month before time barring date i.e. one month before time barring date. However, where the time available is less than one month, request to be sent only with the approval of concerned senior tax officers.
- Clarification in respect of Exchange of Information (EOI) requested by foreign authorities should be provided within 15 days of receipt by senior tax officers.
- Initial feedback on completeness of information and/or closure of request should be provided within fifteen days of receipt by Pr.CIT/Pr.DIT/CIT/DIT concerned.
- Final feedback on utilisation of information including additional tax demand raise on completion of assessment or information about launching of prosecution should be provided to FT&TR Division within one month of completion of assessment or launching of prosecution.
- Requests received from foreign tax authorities for information to tackle tax evasion and avoidance in their country under the provisions of the tax treaties should be given high priority and all efforts should be made to provide comprehensive and quality information in a timely manner.

Our comments

The Action Plan retains the broad structure of the earlier plan and seeks to consolidate the achievements made, while re-emphasising priorities within the framework of the overall vision.

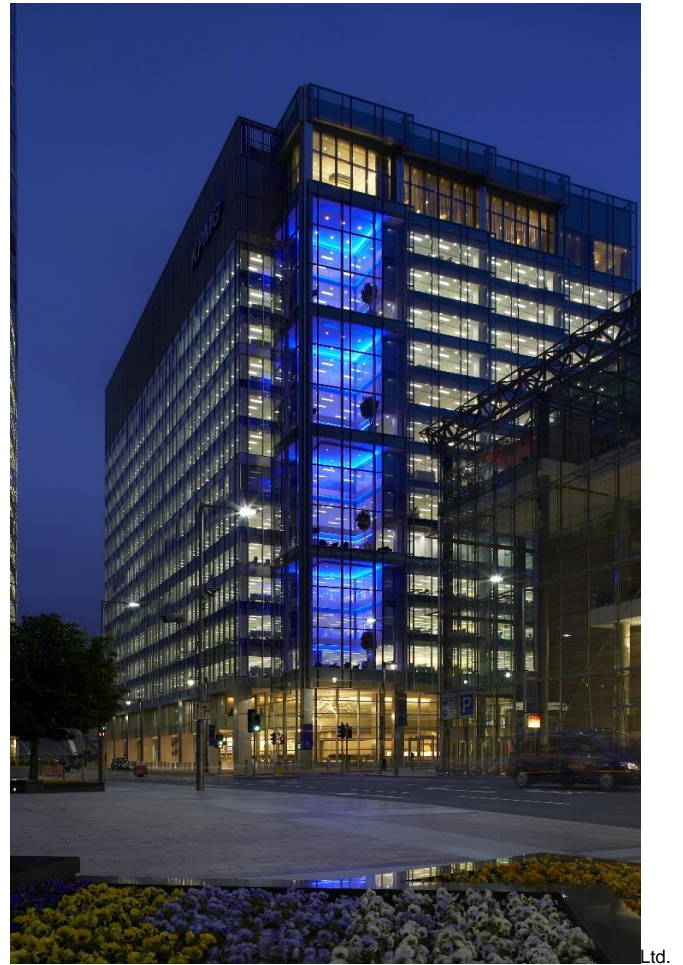
The action plan states that widening of the tax base is one of the key policy objectives of CBDT. During the financial year 2018-19 various initiatives were taken to increase the tax base which help to increase the number of new return-filers. Due to this initiative, large number of new filers were added during 2018-19.

³ The Pay and Accounts Office (PAO)/District Treasury Office (DTO)/Cheque Drawing and Disbursing Office (CDDO) are required to file Form 24G

⁴ A unique seven digit Accounts Office Identification Number

The Central Action Plan refers to the increased economic activity in the country, in the organised as well as in the unorganised sectors, to justify widening of the tax net.

Besides increasing the tax base, the action plan also focusses on litigation management, improving compliance and enforcement.



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